

Litigators of the Week: How a Steptoe Team Got Their Client Off the Hook in Pay-to-Play Case

By **P.J. D'Annunzio**

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Reid Weingarten and Brian Heberlig of Steptoe & Johnson had four boxes full of evidence meant to destroy the credibility of Pennsylvania's former treasurer on the witness stand.

Rob McCord—a disgraced politician who admitted to extorting campaign contributions from donors, and who agreed to testify against their client for leniency—was the prosecution's star witness against 80-year-old Chester County businessman Richard Ireland. According to prosecutors, Ireland funneled \$500,000 in “secret” campaign donations to McCord in 2008 in exchange for his investment of millions in state money into Ireland's business.

But something unexpected happened when McCord took the stand. Instead of gunning for Ireland as the prosecution had intended, McCord sunk the government's case by testifying that he didn't think he and Ireland had broken any law.

Weingarten and Heberlig didn't need to open a single box.

“You have to be prepared to deal with surprises,” Heberlig said. But nothing could have prepared



Reid Weingarten, left, and Brian Heberlig, right, of Steptoe & Johnson. November 28, 2016.

Photo: Diego M. Radzinski/ALM

them for what he called the “stunning, exculpatory testimony” from McCord.

U.S. District Judge John E. Jones III of the Middle District of Pennsylvania, who is also handling McCord's case, made the rare move of granting Ireland's Rule 29 motion for judgment of acquittal on Monday. Jones called McCord's testimony “clearly deficient” and found that “a reasonable jury could not find beyond a reasonable doubt the existence of an explicit quid pro quo relative to Mr. Ireland's campaign contributions to Mr. McCord,” according to a court transcript.

“Conspicuously absent from Mr. McCord's testimony was any allusion whatsoever to Mr. Ireland

asking for Treasury contracts in exchange for campaign contributions to Mr. McCord,” Jones said, adding, “McCord did make mention of the term ‘quid pro quo’ in his testimony but testified that he has now been persuaded, his words, that there was a quid pro quo after discussions with FBI agents.”

Weingarten, a seasoned veteran of white-collar trials, said he’d never seen a cooperating witness behave as McCord did on the stand during cross-examination.

“I don’t remember a fundamental 180 in a trial like this one,” he said. “Then the government got another chance. Was the government going to rip him up? They didn’t ... that was really the end of their case.”

After that, Weingarten and Heberlig had to adapt. Instead of lacerating McCord’s credibility, they used his testimony to bolster Ireland’s own image before the jury.

Testimony from other witnesses helped too. They portrayed Ireland as a good, hard-working man who started from nothing and built a successful multi-million dollar business. And even then, he always made time for his family.

Despite the rosy imagery, and before McCord flipped, Weingarten and Heberlig prepared to explain the political dealings of a state government that doesn’t exactly have a reputation for being squeaky clean.

“Pay-to-play can be ugly but legally benign,” Weingarten said, explaining that despite the negative connotations of the phrase, cash contributions are a part of the American political fabric.

Heberlig said, “We tried to accept responsibility to some degree for politics and many of the things people don’t find attractive, the way the sausage was made.”

But Heberlig and Weingarten said they felt the jury was on their side the whole time. “We were in much better shape going into the defense case than we usually are,” Heberlig said.

Turns out he was right.

After the charges were thrown out, Weingarten, Heberlig and Ireland went to a hotel near the federal courthouse in Harrisburg for lunch. Coincidentally, the members of the jury were dining there too.

As Weingarten and Heberlig tell it, upon seeing Ireland in the hotel’s restaurant, the members of the jury all stood up and spontaneously erupted into a round of applause for him.

“That just completely floored us,” Heberlig said. “To have that kind of warmth from a jury—they were literally cheering for him.”

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